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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,625	12/14/1999	JOHN I. GARNEY	2207/7562	4071
7590 06/23/2005				
KENYON & KENYON 333 W SAN CARLOS STREET SUITE 600 SAN JOSE, CA 951102711				
			EXAMINER PHILPOTT, JUSTIN M	
			ART UNIT 2665	PAPER NUMBER

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/461,625

Applicant(s)

GARNEY ET AL.

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21, 23-31 and 33-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-21, 23-31 and 33-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 25, 2005 have been fully considered but they are not persuasive.

Specifically, applicant argues (pages 11-13) that Evans does not teach the first hub controller (e.g., device 211, controlling hubs 207/209) is adapted to initiate and perform a first transaction with a host controller (e.g., enable USB function 215/217 to be coupled to host controller 205 according to select signal 223) because the host controller 203 generates the signal 223. However, applicant has failed to recognize the clear teaching of Evans (e.g., see FIG. 2) wherein the device 211 is the single element in the system of Evans which couples the USB function 215 to the other components in the system, and ultimately, to the host controller (e.g., host controller 205 via USB hub 209). Thus, even if the select signal 223 may be generated by host controller 223, it is the device 211 which is adapted to initiate and perform the transaction of USB function 215/217 to be coupled to host controller 205, since it is the device 211 which directly couples USB function 215 to the rest of the system (e.g., see col. 3, lines 35-45). Accordingly, applicant's argument is not persuasive.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 2-4, 23-25, 33-35 and 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,600,739 to Evans et al.

Regarding claims 42-44, Evans teaches a method and apparatus for communicating data, comprising: a first hub controller (e.g., device 211, controlling hubs 207/209) having a device driver (e.g., inherently within CPU 230) adapted to initiate and perform a first transaction at a first time with a host controller (e.g., enable USB function 215/217 to be coupled to host controller 205 according to select signal 223, see col. 3, lines 35-45) and to initiate and perform the first transaction at a second time with the host controller (e.g., updating select signal 223 to regain control of USB, see col. 3, line 56 – col. 4, line 4); a second hub controller (e.g., device 213, controlling hubs 207/209) coupled to the first hub controller (e.g., device 211, coupled via hubs 207/209 and select signal path) and adapted to perform a second transaction with an agent (e.g., USB function/peripheral 217) based upon the first transaction at the first time (e.g., see col. 3, lines 39-44 regarding enabling USB function/peripheral 217 communications based upon the first transaction); and wherein the first transaction at the second time is performed after the second transaction (e.g., see col. 3, line 56 – col. 4, line 4, wherein the transaction occurs after controller 205 is no longer available and control reverts back to controller 203).

Regarding claim 2, 3, 23, 24, 33 and 34, the first/second transactions are inherently performed at first/second communication speeds or in accordance with first/second protocols.

Regarding claims 4, 25 and 35, Evans teaches performing a third transaction (e.g., communications between USB functions/peripherals 215 and 217) between the first transaction at the first time and the first transaction at the second time (e.g., see col. 3, lines 44-45).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-21, 26-31 and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of U.S. Patent No. 5,832,492 to Wooten.

Regarding claims 5-10, 26-31 and 36-41, Evans teaches the method discussed above regarding claims 42-44, however, may not specifically disclose the information sent comprises token packets with identification information and a transfer indicator indicating that data needs to be transferred, and at least one of an acknowledgement, handshake indication, or a timeout indication.

Wooten, like Evans, teaches methods for USB communications (e.g., see col. 3, line 30 – col. 15, line 57), and specifically, teaches information sent comprises token packets (e.g., see col. 6, lines 26-27 regarding token packets) implicitly comprising identification information and a transfer indicator indicating that data needs to be transferred (e.g., see col. 6, lines 30-31 regarding token packets allowing transfer of data packets), and a handshake indication (e.g., handshake packet, see col. 6, lines 26-33). The teachings of Wooten provide a method for USB

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communications with reduced memory access and size requirements (e.g., see col. 3, lines 1-67). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the USB communication teachings of Wooten to the USB communication teachings of Evans in order to provide USB communications with reduced memory access and size requirements.

Regarding claims 11-21, Evans teaches the method discussed above regarding claims 42-44, however, may not specifically disclose receiving at the host controller from the agent a request to perform the transactions, and generating a frame template and performing the transactions periodically in accordance with specific time periods. As discussed above, Wooten, like Evans, also teaches methods for USB communications (e.g., see col. 3, line 30 – col. 15, line 57). Specifically, Wooten teaches receiving at the host controller from the agent a request to perform the transactions (e.g., see col. 6, lines 17-21 regarding device-initiated communications), and generating a frame template and performing the transactions periodically in accordance with specific time periods (e.g., see col. 6, lines 5-9 regarding periodic communications). As discussed above, the teachings of Wooten provide a method for USB communications with reduced memory access and size requirements (e.g., see col. 3, lines 1-67). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the USB communication teachings of Wooten to the USB communication teachings of Evans in order to provide USB communications with reduced memory access and size requirements. Furthermore, it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Appellant. In re Mason, 87 F.2d

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370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to configure frame templates according to various particular time periods, since it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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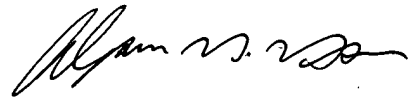
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Justin M Philpott



**ALPUS H. HSU
PRIMARY EXAMINER**